

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI

&

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WA.No. 2060 of 2006(A)

AGAINST JUDGMENT DATED 9.8.2006 IN WP(C) NO.20428/2006

APPELLANT: RESPONDENT

THE KERALA STATE TRANSPORT WORKER'S
CO-OP. SOCIETY LTD. NO. T-133,
S.S.KOVIL ROAD, THAMPANOOR,
THIRUVANANTHAPURAM-1, REP. BY ITS SECRETARY.

BY ADV. SRI.N.UNNIKRISHNAN

RESPONDENTS: PETITIONER & RESPONDENTS 1 & 2

1. T.M.GOVINDANKUTTY,
AGED 55 YEARS, CONDUCTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
ERNAKULAM UNIT.
2. THE KERALA STATE ROAD TRANSPORT CORPORATION,
CHIEF OFFICE AT TRANSPORT BHAVAN,
FORT, THIRUVANANTHAPURAM,
REP. BY ITS MANAGING DIRECTOR.
3. THE ASSISTANT TRANSPORT OFFICER,
KSRTC, ERNAKULAM UNIT.

BY ADV. SRI.T.M.RAMAN KARTHA
R2 & R3 BY STANDING COUNSEL MR.K.PRABHAKARAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

V.K. BALI, C.J. & C.N.RAMACHANDRAN NAIR, J.

W.A.No.2060 of 2006

Dated, this the 12th day of December, 2006

JUDGMENT

Ramachandran Nair,J.(Oral)

This writ appeal is filed against the judgment of the learned Single Judge holding that no recovery can be made from the first respondent for the loan availed by him from the appellant. It is submitted that under garnishee proceedings the second respondent has recovered amounts from the salary of the first respondent for payment to the appellant. However, recovered amounts are retained by the Kerala State Road Transport Corporation is the allegation. It is also reported that full recovery also was not made in terms of the request by the appellant. In any case, whatever amount is recovered and retained by the KSRTC, it is bound to remit to the appellant with interest at the same rate at which it is charged by the appellant on the first respondent.

Accordingly we dispose of the writ appeal directing the second respondent to remit to the appellant any recovered

amount retained by them with interest at the same rate at which interest is charged by the appellant on the first respondent within one month from the date of production of a copy of this judgment by the appellant. The first respondent will produce details of the receipts to the second respondent for forwarding the amount with interest as above to the appellant. Whatever is the balance payable by the first respondent to the appellant would be recovered by the appellant by resorting to revenue recovery proceedings if it is authorised under Section 71 of the Revenue Recovery Act. For remittances already made by the second respondent, interest should be recovered only upto the date of payment. In the event of dispute on amount payable, the same has to be settled through arbitration provided under the Co-operative Societies Act.

**V.K. BALI,
CHIEF JUSTICE.**

**C.N.RAMACHANDRAN NAIR,
JUDGE.**

vns